

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT HUNTINGTON**

**OHIO VALLEY ENVIRONMENTAL  
COALITION, INC, WEST VIRGINIA  
HIGHLANDS CONSERVANCY, INC.,  
COAL RIVER MOUNTAIN WATCH,  
INC., and SIERRA CLUB**

**Plaintiffs,**

**v.**

**CIVIL ACTION NO. \_\_\_\_\_**

**INDEPENDENCE COAL COMPANY, INC.,  
and JACKS BRANCH COAL COMPANY,**

**Defendants.**

**DECLARATION OF VIVIAN STOCKMAN**

I, Vivian Stockman, state and affirm as follows:

1. I have lived in Spencer, WV, in Roane County for 20 years. I am the project coordinator for the Huntington, W. Va.-based Ohio Valley Environmental Coalition (OVEC).
2. I have been a member of OVEC for 15 years. OVEC, with approximately 1,500 members, has a mission to organize and maintain a diverse grassroots organization dedicated to the improvement and preservation of the environment through education, grassroots organizing and coalition building, leadership development, and media outreach.
3. I have been a member of the West Virginia Highlands Conservancy for a number of years. The Conservancy, with approximately 1800 members, is a nonprofit membership organization located in West Virginia, and for the past three decades has been a leader in citizen efforts to protect West Virginia's land and water resources from the effects of coal mining.
4. I have been a member of Coal River Mountain Watch (CRMW) for several years. CRMW, with over 500 members, has a mission to establish social, economic and environmental justice in the southern coalfields of West Virginia, to keep communities intact, and to improve the quality of life in these communities.
5. I have and will continue to frequently travel throughout the coal mining areas of southern West Virginia. I enjoy the natural beauty of the rivers and streams that are home to so much life. My understanding that clean water is the basis of all life is frequently forefront in my mind as I explore the natural areas of the state.

6. I enjoy engaging in outdoor activities along West Virginia's streams such as hiking, nature observation, wading, bird watching, and especially nature photography. It is extremely important to my ultimate enjoyment of these streams to know that the water is clean and pure.

7. These activities are vital to my emotional and spiritual well-being. As a child, my grandfather, a native West Virginian with Cherokee ancestry, introduced me to the beauty of the woods and streams. I don't know if it was because of him, or just in my "nature," but since I was a little kid, I have had a fascination with turtles, salamanders, crawdads, frogs, and other critters I find in or near streams.

8. Birds, too, have given me hours of joy. I just don't feel right without frequent contact with the rivers and streams of our beautiful state. Such contact soothes me, and keeps me in touch with childlike-wonder, which in turn keeps me happy. Such contact also inspires me artistically. My college studies involved my two main loves—nature and writing—I have a degree in environmental communications.

9. In addition, part of my job includes evaluation of the environment and I am directed to take time in and keep a strong connection to nature in order to be more effective in my work.

10. In my personal travels and in the course of my work, I often drive by and visit near streams into which coal companies discharge pollutants. As I drive along I try to spot the stream and look for vegetation that identifies the stream bank. Sometimes I stop to observe the stream and look for fish and other aquatic life and waterfowl, trying to enjoy the stream sounds and sights.

11. In general I am very concerned about the selenium water discharges from the coal mines in West Virginia. I know that selenium is a bioaccumulative toxin that concentrates in the food chain. While most living things need small amounts of selenium to survive, larger amounts can be toxic to fish and waterfowl. You can't see the selenium. It doesn't turn the water orange the way iron can. If I see a stream where the water looks ok it can still contain toxic levels of selenium. It is very upsetting to me.

12. As I understand it, Independence Coal holds NPDES permit WV1016890 which regulates pollution discharges to Matts Creek and James Creek of the West Fork of Pond Fork in the Little Coal River watershed.

13. I also understand that Independence Coal has been violating the selenium discharge limits in the permit noted above. The selenium pollution coming from the mines greatly concerns me and decreases my enjoyment of the reaches downstream of the mines. If Independence Coal were to comply with the pollution limits in its permits I would enjoy the stream more and be less concerned about impacts to the aquatic life and waterfowl living in and near the streams.

14. I have visited the area between the towns of Twilight and Lindytown and beyond at least 3 to 4 times a year for the past 2 to 3 years. The West Fork of Pond Fork is between these two towns and nearby Matts Creek and James Creek flow into the West Fork. I intend to return to this area in the future.

15. I spend a lot of time walking in this area and frequently visit the stream. When I am observing the stream I am very concerned about the toll mining has taken on water quality. I

am also very concerned about the impacts of selenium on the fish and waterfowl in these areas and areas downstream. It makes me angry that Independence Coal Company is not complying with its permit limits.

16. I understand that Jacks Branch Coal Company holds NPDES permit WV0093912 which regulates water pollution discharges to Smithers Creek and Hughes Creek of the Kanawha River.

17. I also understand that Jacks Branch Coal Company has been violating the selenium discharge limits in the permit noted above. The selenium pollution coming from the mines greatly concerns me and decreases my enjoyment of the reaches downstream of the mines. If Jacks Branch Coal Company were to comply with the pollution limits in the permit, I would enjoy the stream more and be less concerned about impacts to the aquatic life and waterfowl living in and near the streams.

18. I visited Hughes Creek at least once in the past several years. I stopped near the creek and walked down to the water to assess the stream. I listened to the sounds of the water and enjoyed my time there. It is very upsetting to me that Hughes Creek is polluted by mining operations discharging too much selenium upstream of where I stopped. The pollution diminishes my enjoyment of the area. I intend to return to Hughes Creek in the future.

19. I also visited Hughes Creek earlier this summer. I drove past the first fork and walked down to the stream. I flipped over rocks in the stream bed to check for insects and life but I didn't find very much. I am concerned that the pollution including selenium coming from the mines upstream is harming the aquatic life and waterfowl that rely on the stream. It is very upsetting to me.

20. A few years ago I also visited Smithers Creek. I drove a short distance past Cannelton and went down to the stream to explore and look for any signs of pollution from the mines upstream. The stream looked okay but I know that you can't readily see evidence of selenium pollution. It is upsetting to me that the mines upstream are discharging high levels of selenium and threatening aquatic life and waterfowl downstream. I intend to return to Smithers Creek in the future.

21. I also visited Smithers Creek earlier this summer. I drove up Bull Push Fork of Smithers Creek and stopped at a lovely wooden bridge, unusual in that logs, not planks, were its base. I spent quite a while on the bridge looking at the stream and enjoying the sounds and sights. My enjoyment of the stream was harmed by the pollution including selenium coming from the mines upstream.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 28<sup>th</sup> day of August 2010.



Vivian Stockman